



## **CITY OF HAYWARD AGENDA REPORT**

Planning Commission

Meeting Date: 06/21/01

Agenda Item: 3

**TO:** Planning Commission

**FROM:** Arlynn J. Camire, Associate Planner

**SUBJECT:** Use Permit No. 01-160-06 – Donald Boehm (Applicant/Owner): Request To Amend the Conditions of Approval of Use Permit Application No. 00-160-06 to Allow Truck Access From Smalley Avenue - The Property Is Located At 730 and 750 A Street, North Side, In A CC-C (Central City-Commercial) Subdistrict

### **RECOMMENDATION:**

It is recommended that the Planning Commission find that the project is categorically exempt from environmental review and deny the request to modify the conditions of approval of the use permit subject to the attached findings.

### **BACKGROUND:**

On March 9, 2000, the Planning Commission approved a use permit (UP 00-160-06) that allows the sales and installation of tires and wheels at Larry's Tire Express located in a former automobile dealership showroom and auto garage facility. As a condition of approval No. 21, the Planning Commission prohibited access to the site from Smalley Avenue (Attachment B). Subsequently to the Planning Commission action, one of the buildings on the site was occupied by Rent-A-Center, a primary use that does not require discretionary approval.

#### **Setting**

The property is a flat, flag shaped, through parcel, with 189 feet of frontage on A Street and 125 feet of frontage on Smalley Avenue, and is approximately 295 feet in depth. Retail and commercial services are located on either side on the A Street frontage. An auto body garage with related auto storage, and single- and multi-family homes face Smalley Avenue. Smalley Avenue is 34 feet wide and parking is not permitted on the south side of the street from Montgomery Avenue eastward to Melvin Court.

The 45,650-square-foot site contains 3 buildings: a 12,300-square-foot building contains Larry's Tire Express, a 4,544 retail building contains Rent-A-Center furniture store; and a 1,792-square-foot garage is used by Rent-A-Center for furniture storage. A landscaped

parking lot with 44 spaces with two-way circulation is located behind Larry's Tire Express (Attachment A).

## Proposal

The property owner has requested that the conditions of approval be modified to allow large delivery trucks to enter from Smalley Avenue at the rear of the site and to allow a restricted right turn exit onto A Street (Attachment A). This would allow large trucks to drive straight through the site without using the parking lot to turnaround to exit back onto A Street. According to the applicant, several trucks, while turning around to exit back onto A Street, have struck and damaged the building that houses Larry's Tire Express. The applicant indicates that delivery trucks would only travel westbound on Smalley Avenue from Mission Boulevard, thereby avoiding passing in front of most of the residences along Smalley Avenue.

During the Planning Commission public hearing, a neighbor claimed that traffic access to the site via Smalley Avenue would increase the number of trips into the neighborhood. The Planning Commission expressed concern that neighboring residents were going to continue to be impacted by commercial projects in the area, especially by traffic. Therefore, the Planning Commission added a condition of approval designed to mitigate traffic by restricting access from the site to Smalley Avenue to emergency vehicles.

According to the owner of Larry's Tire Express, it is not out of the ordinary for two delivery trucks to be on site at once making it difficult to maneuver the site to exit back onto A Street. Therefore, through site access (Smalley to A) would allow for easier maneuvering when more than one delivery truck is on-site. Larry's Tire Express receives one to three deliveries a week, 9:00 am to 4:30 pm, weekdays. Rent-A-Center receives up to three deliveries 7:00 am to 4:00 pm, Tuesday through Saturday. Both Larry's Tire Express and Rent-A-Center receive inventory from 18-wheeler semi-trucks.

Staff recommends that the existing condition remain. Staff is of the opinion that the proposed path of travel is not enforceable. Delivery truck drivers may choose to use Montgomery Street to access Smalley Avenue contrary to any posted truck restriction. In fact, staff has noted that on more than one occasion, the condition of approval requiring no access from Smalley Avenue has been violated. Rent-A-Center has admitted to allowing 18-wheeler delivery trucks to enter on Smalley Avenue. The driver will call ahead and they will unlock the gate. They have also indicated that this is a preferred method of delivery because customers of Larry's Tire Express park in the driveway next to the tire and wheel showroom entrance rather than in customer parking located behind the building. This requires the semi truck drivers to make a wide turn from the A Street entrance which has resulted in the truck striking the customer entrance canopy while trying to avoid hitting the customer's vehicle.

The North Hayward Neighborhood Plan requires the Montgomery Area to be preserved as a "family neighborhood" with "traditional features." The proposed path of travel includes a portion of Smalley Avenue that is included in the Montgomery Area. Therefore, the

introduction of delivery trucks into the Montgomery Area is contrary to the goal not to commercialize the residential neighborhood.

Rather than modify the condition, staff suggests that the managers of both retail establishments coordinate the times when deliveries can be received and post the sides of the buildings with "No Customer Parking". This alternative will assure that if a delivery truck enters the site, it will be the only delivery truck on-site, and conflict with parked vehicles will be eliminated. Increased use of Smalley Avenue could create conflicts with residential and auto repair uses.

The possibility of a loading zone on A Street has been discussed with Rent-A-Center. However, because the sales personnel are required to unload the delivery trucks, it is more practical for the trucks to enter the site to assure easier access to the double doors and the storage building. It would also be more practical for tire delivery trucks to enter the site because the storage area is located to the rear of the building, accessible through a garage door. If at anytime that a loading zone is necessary, the property owner, with the agreement of both business owners, may submit a written request to Public Works.

Another solution would be to remove the canopy from the building that houses Larry's Tire Express. This would allow large trucks to drive straight into the site unimpeded by a canopy that projects into the driveway envelope. The modification to the building can be completed through the building permit process.

#### Environmental Review

The project is exempt from environmental review as defined by the California Environmental Quality Act (CEQA) Guidelines Section 15301, Class 1, Existing Facilities.

#### Public Notice

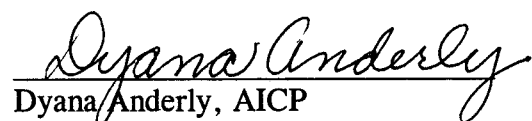
On June 8, 2001, a Notice of Public Hearing was mailed to every property owner and resident within 300 feet of the property as noted on the latest assessor's records.

During the use permit referral process staff solicited comments from neighborhood residents and property owners regarding the project. Staff has received a letter in opposition from the property owner of the adjacent multi-family units located to the west of the site. In addition, staff has had several conversations with Mr. Ray Baker who owns the property to the east of the site. He opposes truck access from Smalley Avenue because he believes that the street is too small to accommodate trucks and approval will introduce large delivery trucks into a residential neighborhood.

**Prepared by:**

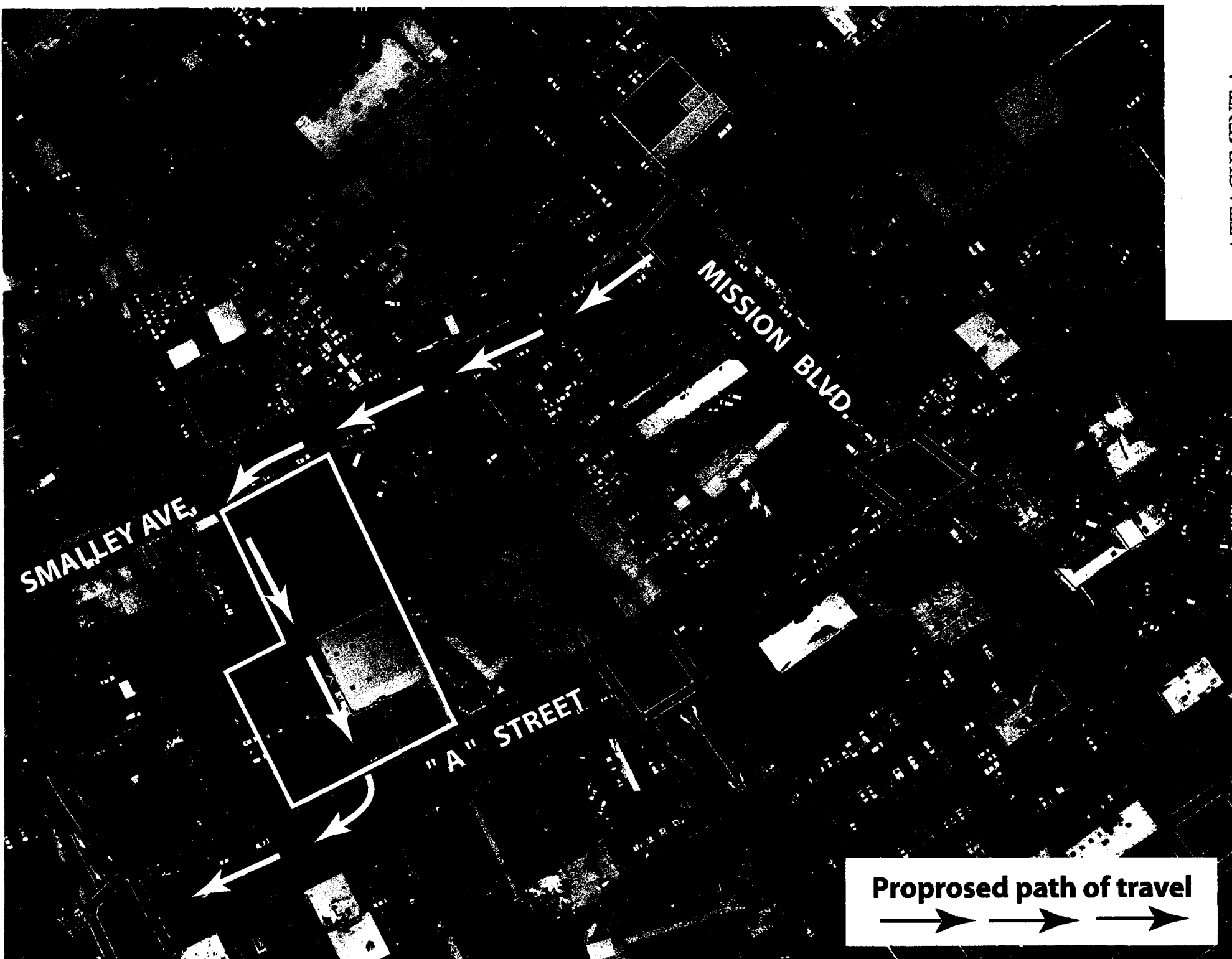
  
Arlynne J. Camire, AICP  
Associate Planner

**Recommended by:**

  
Dyana Anderly, AICP  
Planning Manager

**Attachments:**

- A. Proposed Path of Travel
- B. Conditions of Approval (Use Permit No. 00-160-06)
- C. Letter in Opposition
- D. Findings for Denial  
Plans



**CONDITIONS OF APPROVAL**  
**Use Permit Application 00-160-06**  
**Larry's Tires**  
**750 A Street**

**General**

1. Use Permit Application No. 00-160-06 is approved subject to the specific conditions listed below. This permit becomes void on March 9, 2001, unless prior to that time building permit has been accepted for processing by the Building Official, or a time extension is approved A request for a one year extension must be submitted to the Development Review Services Division 15 days prior to the above date.
2. All improvements indicated on the site plan labeled Exhibit "A" shall be installed prior to occupancy of the building.
3. Inoperable vehicles are not permitted to be stored on-site. All vehicles are required to be in working order.
4. Outdoor storage of tires or related equipment shall be prohibited on-site. Vehicular repair, storage, or related activity outside the building shall be prohibited.

Prior to the issuance of a building permit the applicant shall:

5. Submit a color board to be reviewed and approved by the Director of Community and Economic Development/Planning Director. The buildings are required to be painted light gray with teal trim.
6. Submit a complete set of construction documents including property survey, architectural/structural and/or electrical/mechanical plumbing/plans, calculations and specifications where possible.
7. Submit a site drainage plan including the design of a fossil filter system.
8. Submit a detailed landscape and irrigation plan prepared by a licensed Landscape Architect and for the review and approval by the City Landscape Architect. Landscaping and irrigation shall comply with the City's *Water Efficient Landscape Ordinance*.
9. Submit a detailed fencing plan for the entire property and including both the rear decorative metal fence and the side redwood fence to the Director of Community and Economic Development for review and approval. Razor wire or similar wire is required to be removed.

10. Submit to the Director of Community and Economic Development/Planning Director the design of the exterior trash enclosure and recycling enclosure. The materials shall be complementary to or reflect of materials used within the building. Proposed dimensions and design of the enclosures shall comply with the City's Recycling Ordinance and shall contain provisions for trash and recycling facilities such as a trash dumpster and recycling carts.
11. Submit an exterior lighting plan. Lighting shall be designed to reflect away from adjacent properties and shall incorporate decorative exterior fixtures and shall provide a minimum of one candle foot at ground level during hours of darkness.
12. Submit a revised parking lot plan that includes the following:
  - a. Provide a revised site plan that reflects the parking and circulation area shown on "Exhibit A";
  - b. The driveways shall conform to SD-110 (6-foot flares);
  - c. The driveway accessing Smalley Avenue shall be 24-feet-wide
  - d. The parking area between the two vacant buildings abutting the west property line. It is appropriate to locate the 2 required parking spaces for persons with physical disabilities within the parking area between the 2 vacant buildings abutting the west property line. Design a parking layout for this area.
13. The facades of the two retail buildings of A Street are required to have similar entry-way features.
14. Fire Department Requirements:
  - a. The tenant shall only perform tire service and repair. No other vehicle services shall be done at this building.
  - b. A one-hour separation between the "M" occupancy and "S-3" occupancy is required. All tenant improvements require a building permit.
  - c. An automatic fire sprinkler system is being proposed for the building. The system shall be designed for meeting overhead ceiling densities per NFPA 13 and 231-D (Storage of Rubber Tires) Standards. The underground fire service shall meet NFPA 24 Standards.
  - d. The building shall meet storage requirements as per the 1998 California Fire Code, Article 81, for Storage of Tires (High Hazard Commodity).
  - e. Tenant shall obtain appropriate permits for the installation of racks, if the tire racks exceed 6' in height.
  - f. Building shall have a carbon monoxide detection system installed within the "S-3" occupancy.
  - g. All use and/or storage of hazardous materials shall be reported to the fire department per previous meetings, the applicant has indicated that the tire service will only be conducted and no additional hazardous materials will be used.

- h. Provide an emergency access gate with a Fire Marshall approved lock box or equivalent locking device on the A Street and Smalley Avenue frontages. The design of the emergency access gate, including gate width, locking device(s) and location shall be approved by the Fire Marshal.

15. Prior to Connection of Utilities

- a. The on-site paving shall be repaired or replaced to the satisfaction of the City Engineer. The minimum thickness of asphalt concrete pavement shall be 3 inches and it shall be compacted to a relative compaction of not less than 95 percent;
- b. The damaged sidewalk and curb along both property frontages shall be replaced to match existing.
- c. The easterly driveway on Smalley Avenue shall be removed and replaced with curb, gutter, sidewalk and tie-in paving to match existing improvements. Replace the curb, gutter, sidewalk and tie-in pavement on Smalley Avenue as required by the City Engineer.
- d. All catch basins shall be equipped with fossil filters or an equivalent device approved by the City Engineer.
- e. Obtain encroachment permits prior to the commencement of any work to be done within the street right-of-way.
- f. Replace all broken windows, broken rain gutters and broken downspouts.

16. Prior to occupancy the applicant shall:

- a. Submit a sign permit application for relocation of the existing business sign from the applicant's property at 835 A Street.
- b. The applicant shall submit an on-site recycling plan to the City's Solid Waste Manager to be implemented prior to occupancy. The recycling plan shall call for the removal of used tires on a weekly basis.

17. All applicable requirements of the City's Security Ordinance shall be met.

18. Landscaping shall be maintained in a weed-free condition at all times with replacement plants provided where necessary. Required street and parking lot trees that are severely topped or pruned shall be immediately replaced, as determined by the City Landscape Architect.

19. The property owner shall maintain in good repair all building exteriors, walls, lighting, landscaping, trash enclosures, drainage facilities, driveways, and parking areas. The premises shall be kept clean and any graffiti shall be painted or removed within seven days of occurrence.



20. Prior to authorization for occupancy, including authorization for gas and electric meter service, staff shall ensure that the use arrangement, construction, and improvements are in conjunction with plans approved through verification of zoning compliance procedures.
21. Access to Smalley Avenue shall be limited to emergency vehicles only.
22. Violation of conditions is cause for revocation of this permit application at a public hearing before the duly authorized review body.

**VARNI PROPERTIES, INC.**

20987 MONTGOMERY AVENUE  
HAYWARD, CALIFORNIA 94541

April 16, 2001

By Fax:: 583-3649

Arlynn J. Camire, AICP  
Associate Planner  
CITY OF HAYWARD  
Planning Division  
777 B Street  
Hayward, CA 94541-5007

Re: Project: UP-01-160-06  
Donald Boehm For Larry's Tire Express  
750 A Street, Hayward, CA

Dear Ms. Camire:

I have received the notice concerning the proposed request from Larry's Tire Express.

I don't believe that it would be a good idea to allow the trucks access from Smalley Avenue due to the number of residential units on such street.

Very truly yours,

VARNI PROPERTIES, INC.

By 

ANTHONY B. VARNI

ABV:jes

ATTACHMENT C

**VARNI PROPERTIES, INC.**

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ATTACHMENT C

**FINDINGS FOR DENIAL**  
**Use Permit Application 01-160-06**  
**750 A Street**

1. That delivery truck access from Smalley Avenue is not desirable for the public convenience or welfare in that large delivery trucks may drive through a residential neighborhood to access a commercial property;
2. That delivery truck access from Smalley Avenue will impair the character and integrity of the adjacent Single-Family Residential and High Density Residential Zoning Districts and the residentially developed Central-City Commercial Zoning District properties in that approval of the expansion of the commercial use is contrary to the residential character of the properties;
3. That delivery truck access will be detrimental to the public health, safety, or general welfare in that the introduction of delivery truck traffic may negatively impact residential pedestrian and vehicular traffic. In addition, the proposed path for trucks down Smalley Avenue is not capable of effective enforcement. Furthermore, trucks are known to use the Smalley Avenue entrance in violation of the use permit in a manner currently adversely impacting the residential neighborhood and the surrounding area.
4. That the project will not be in harmony with applicable City policies of the North Hayward Neighborhood Plan in that the Montgomery Area is required to be preserved as a "family neighborhood" with "traditional features". The proposed path of travel includes a portion of Smalley Avenue that is included in the Montgomery Area. Therefore, the introduction of delivery trucks into the Montgomery Area is contrary to the goal not to commercialize the neighborhood.